IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 118 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SANJAY FAMILY TRUST

Appearance:

MR MANISH R BHATT for Petitioner

MR HM TALATI for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 16/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

At the instance of Commissioner of Income-tax, Gujarat-III, Ahmedabad, the Income-tax Appellate Tribunal, Ahmedabad Bench 'A' has referred following question of law for the opinion of this Court in respect of Assessment Year 1978-79 :-

"Whether, the Tribunal has not erred in law and on facts in holding that the trust is not a discretionary trust but a specific trust ?"

2. The assessee claimed that the assessee is not a discretionary trust, but a specific trust and the Appellate Tribunal found that the controversy was covered by the decision of the Tribunal in the case of TANVI SAJNI FAMILY TRUST.

3. We have heard the learned counsel for the parties.The learned counsel for the parties state at the Bar that the controversy raised in the present Reference is squarely covered by the decision of the Division Bench of this Court rendered in Commissioner of Income-tax v. Tanvi Sajni Family Trust, (1994) 209 ITR 497. Following the principle laid down in the said decision, we hold that the Tribunal has not erred in law and on facts in holding that the trust is not a discretionary trust, but a specific trust. The Reference is, therefore, answered in favour of the assessee and against the Revenue. The Reference accordingly, stands disposed of with no order as to costs.

(J.M.Panchal, J.)

(M.S.Shah, J.)

(patel)